

credit shall also be entered on the annual return on Form 1042 for the calendar year following the calendar year of overwithholding and shall be applied as a payment on account of the tax shown on such form. If the withholding agent files a claim for credit or refund of the overpayment on Form 843 in accordance with § 301.6402-2 of this chapter (Procedure and Administration Regulations), or a claim for refund of the overpayment on Form 1042 in accordance with § 301.6402-3 of such chapter, he may not claim credit for the overpayment under this paragraph.

(c) *Overpayment of amounts actually withheld.* No credit or refund to the withholding agent shall be allowed for the amount of any overpayment of tax which, after taking into account paragraph (b) of § 1.1464-1, the withholding agent has actually withheld from an item of income under chapter 3 of the Code.

[T.D. 6922, 32 FR 8714, June 17, 1967]

§ 1.6425-1 Adjustment of overpayment of estimated income tax by corporation.

(a) *In general.* Any corporation which has made an overpayment of estimated income tax for a taxable year beginning after December 31, 1967, may file an application for an adjustment of such overpayment. The right to file an application for an adjustment of overpayment of estimated income tax is limited to corporations.

(b) *Contents of application.* (1) The application for an adjustment of overpayment of estimated income tax shall be filed on Form 4466. The application shall be filled out in accordance with the instructions accompanying the form, and all information required by the form and instructions must be furnished by the corporation. The application shall be verified in the manner prescribed by section 6065 as in the case of a return of the corporation.

(2) An application for an adjustment of overpayment of estimated income tax does not constitute a claim for credit or refund. If such application is disallowed by the district director, or director of a service center, in whole or in part, no suit may be maintained in any court for the recovery of any tax based on such application. The filing of

an application for an adjustment of overpayment of estimated income tax will not constitute the filing of a claim for credit or refund within the meaning of section 6511 for the purpose of determining whether a claim for refund was filed prior to the expiration of the applicable period of limitation. The corporation, however, may file a claim for credit or refund under section 6402 at any time prior to the expiration of the applicable period of limitation and may maintain a suit based on such claim if it is disallowed or if the district director, or director of a service center, does not act on the claim within 6 months from the date it is filed. Such claim may be filed before, simultaneously with, or after the filing of the application for the adjustment of overpayment of estimated tax. A claim for credit or refund under section 6402 filed after the filing of an application for an adjustment of overpayment of estimated income tax is not to be considered an amendment of such application. Such claim, however, in proper cases, may constitute an amendment to a prior claim filed under section 6402.

(c) *Time and place for filing application.* (1) The application for an adjustment of overpayment of estimated income tax shall be filed after the last day of the taxable year and on or before the 15th day of the third month thereafter, or before the date on which the corporation first files its income tax return for such taxable year (whether or not it subsequently amends the return), whichever is earlier.

(2) Except as provided in paragraph (b)(2) of § 301.6091-1 of this chapter (relating to hand-carried documents), the application on Form 4466 shall be filed with the internal revenue officer designated in instructions applicable to such form.

[T.D. 7059, 35 FR 14546, Sept. 17, 1970]

§ 1.6425-2 Computation of adjustment of overpayment of estimated tax.

(a) *Income tax liability defined.* For purposes of §§ 1.6425-1 through 1.6425-3 and 1.6655-5, relating to excessive adjustment, the term "income tax liability" means the excess of:

(1) The tax imposed by section 11 or 1201(a), or subchapter L of chapter 1 of the Code, whichever is applicable, over

(2) The credits against tax provided by part IV of subchapter A of chapter 1 of the code.

(b) *Computation of adjustment.* The amount of an adjustment under section 6425 is an amount equal to the excess of the estimated income tax paid by the corporation during the taxable year over the amount which, at the time of filing Form 4466, the corporation estimates as its income tax liability for the taxable year.

[T.D. 7059, 35 FR 14547, Sept. 17, 1970]

§ 1.6425-3 Allowance of adjustments.

(a) *Limitation.* No application under section 6425 shall be allowed unless the amount of the adjustment is (1) at least 10 percent of the amount which, at the time of filing Form 4466 the corporation estimates as its income tax liability for the taxable year, and (2) at least \$500.

(b) *Time prescribed.* The Internal Revenue Service shall act upon an application for an adjustment of overpayment of estimated income tax within a period of 45 days from the date on which such application is filed.

(c) *Examination.* Within the 45-day period described in paragraph (b) of this section, the Internal Revenue Service shall make, to the extent it deems practicable in such period, a limited examination of the application to discover omissions and errors therein. The Service shall calculate the adjustment, which calculation must be set forth in the application for such adjustment, in the manner provided in section 6425(c)(2) for the determination by the corporation of such adjustment. The Service, however, may correct any material error or omission that is discovered upon examination of the application. In determining the adjustment, the Service may correct any mathematical error appearing on the application, and it may likewise make any modification required by the law to correct the corporation's computation of the adjustment. If the required modification has not been made by the corporation and the Service has available the necessary information to make such modification within the 45-

day period, it may make such modification. The examination of the application and the allowance of the adjustment shall not prejudice any right of the Service to claim later that the adjustment was improper.

(d) *Disallowance in whole or in part.* If the Internal Revenue Service finds that an application for an adjustment of overpayment of estimated tax contains material omissions or errors, the Service may disallow such application in whole or in part without further action. If, however, the Service deems that any omission or error can be corrected by it within the 45-day period, it may do so and allow the application in whole or in part. In the case of a disallowance or modification, the Service shall notify the corporation of such action. The Service's determination as to whether it can correct any omission or error shall be conclusive. Similarly, its action in disallowing, in whole or in part, any application for an adjustment of overpayment of estimated income tax shall be final and may not be challenged in any proceeding. The corporation in such case, however, may file a claim for credit or refund under section 6402, and may maintain a suit based on such claim if it is disallowed or if the Service does not act upon the claim within 6 months from the date it is filed.

(e) *Application of adjustment.* If the Internal Revenue Service allows the adjustment, it may first credit the amount of the adjustment against any liability in respect of an internal revenue tax on the part of the corporation which is due and payable on the date of the allowance of the adjustment before making payment of the balance to the corporation. In such a case, the Service shall notify the corporation of the credit, and refund the balance of the adjustment.

(f) *Effect of adjustment.* (1) For purposes of all sections of the Code except section 6655, relating to additions to tax for failure to pay estimated income tax, any adjustment under section 6425 is to be treated as a reduction of prior estimated tax payments as of the date the credit is allowed or the refund is paid. For the purpose of section 6655 (a) through (f) credit or refund of an adjustment is to be treated as if not made